

**REMARKS/ARGUMENTS**

The Applicant thanks the Examiner for the Office Action mailed on August 4, 2005. In particular, the Applicant thanks the Examiner for pointing out the allowable subject matter of claims 4, 10, 11, 14, 17, and 18. In response to the Examiner's August 4, 2005 Office Action, Applicant has amended claims 1, 4, 10, 14, and 17. In addition, Applicant offers the enclosed remarks. After entry of this Amendment, claims 1-19 are pending in this application. The Applicant respectfully requests entry of these amendments and the Examiner's consideration of the below remarks.

The Examiner first objected to claim 14, wherein the Examiner stated that it is unclear from the claim language if the dome-shaped head and the bumper represent the same or different elements. In response to this objection, Applicant has amended the language of claim 14 in which the claim language should now clearly show that the dome-shaped head is simply a part of the overall bumper structure.

The Examiner next rejected claims 1, 2, 5, 7, 8, 13, 15, and 19 under 35 U.S.C. § 102(b) as being anticipated by Brun, United States Patent No. 5,465,958. The Examiner asserts that Brun discloses a training apparatus, comprising an upright, rigid target panel (target 10 which includes goalie outline 45; can be semi-rigid or rigid material; see column 6, lines 7-15 and lines 44-46); and at least one bumper (the broadest reasonable interpretation of *bumper* would include target areas 46; see column 6, lines 7-15) connected to said target panel (target 10), wherein said at least one bumper adaptable to deflect a thrown projectile in a random direction. The Examiner further asserts that it should be noted that the preamble, a throwing and catching training apparatus, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-

contained description of the structure and does not depend on the preamble for completeness.

Regarding claim 2, the Examiner asserts that Brun further shows as least one support structure (target frame; see figure 2) connected to said target panel (target 10) for supporting said target panel in an upright position. Regarding claim 5, the Examiner asserts that Brun shows the at least one bumper (target area 46) may be fabricated from cloth or plastic material. Alternatively, it can be made of plastic sheets such as polyurethane, polystyrene, or similar durable material. The Examiner contends that it should be noted that an elastomeric material is a plastic material. Regarding claim 7, the Examiner notes the rejection for claims 1 and 5. Regarding claim 8, the Examiner notes the rejection for claim 2. Regarding claim 13, the Examiner notes the rejection of claims 1, 2, and 5. Regarding claim 15, the Examiner asserts that as best seen in figure 4, Brun shows the bumpers are equally spaced. Regarding claim 19, the Examiner asserts that Brun further shows a pair of support members (31 and 32) releasably connected to opposite sides of the target panel (10).

In response to this rejection, Applicant has first amended claim 1 to recite “at least one bumper releasably connected to said target panel.” Brun does not disclose bumpers that are releasably connected to the target panel. Instead, Brun states that “target areas 46 may be cloth or plastic materials affixed to the mesh netting 41 in a similar manner as goalie outline 45.” (Col. 6, lines 10-12.) In turn, Brun discloses that the goalie outline is “stitched or otherwise held” to the mesh netting. (Col. 6, lines 5-6.) Brun therefore does not anticipate claim 1 as amended. Similarly, since claims 2 and 5 depend from claim 1, Brun also does not anticipate claims 2 and 5. Similarly, claim 7 recites “a plurality of elastomeric bumpers releasably connected to said target panel.” Again, Brun does not disclose bumpers that are releasably connected to the target panel. Brun therefore anticipates neither claim 7 nor claim 8, which depends from claim 7. Claim 13 also contains the same limitation, and Brun therefore does not anticipate claim 13 or claims 15 or 19,

both of which depend from claim 13. Applicant notes that the word “releasably” appears in claims already examined and deemed to have allowable subject matter, such as claims 10, 11, 14, 17, and 18. Applicant therefore avers that the addition of this word to claim 1 does not raise new issues. The Applicant therefore respectfully requests that the Examiner withdraw the rejections of claims 1, 2, 5, 7, 8, 13, 15, and 19 as being anticipated by Brun, since Brun does not disclose bumpers releasably connected to the target panel.

The Examiner next rejected claims 1, 2, and 6 under 35 U.S.C. § 102(b) as being anticipated by Larson, United States Patent No. 4,026,551. The Examiner contends that regarding claim 1, Larson discloses a practice apparatus, comprising an upright, rigid target panel (rebound wall section 12) and at least one bumper (elongated element 30 and/or arcuately contoured element 34) connected to said target panel (12), wherein said at least one bumper adaptable to deflect a thrown projectile in a random direction. The Examiner further contends that regarding claim 2, Larson shows the apparatus includes a support structure (support member 36) for supporting the target panel (12). The Examiner next asserts that regarding claim 6, Larson shows the bumper is substantially circular, dome-shaped head (see figures 2-4) extending away from the target panel (12) and adaptable to deflect the thrown projectile in a random direction.

In response, Applicant has amended claim 1 to recite “at least one bumper releasably connected to said target panel.” Larson does not disclose at least one bumper releasably connected to the target panel. Larson states repeatedly that elongated elements 30 and arcuately contoured elements 34 are “secured” to the target. (Col. 2, line 66; Col. 3, lines 10, 15, 20, 27.) For this reason, Larson does not anticipate claim 1 as amended, nor claims 2 or 6, which depend from claim 1. Since Larson does not anticipate claims 1, 2, or 6, Applicant respectfully requests that the Examiner withdraw the rejection of these claims as being anticipated by Larson.

The Examiner next rejected claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Grispi, United States Patent No. 5,238,243. The Examiner contends that regarding claim 1, Grispi discloses a target apparatus, comprising an upright, rigid target panel (rigid vertical wall 11) and at least one bumper (target plate 22) connected to said target panel (11), wherein said at least one bumper adaptable to deflect a thrown projectile in a random direction. The Examiner further asserts that it should be noted that the preamble, a throwing and catching training apparatus, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness. The Examiner further contends that regarding claim 2, Grispi discloses a target apparatus, comprising an upright, rigid target panel (rigid vertical wall 11) and at least one bumper (target plate 22) connected to said target *panel* (11), wherein said at least one bumper adaptable to deflect a thrown projectile in a random direction. It should be noted that the preamble, a throwing and catching training apparatus, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness. Regarding claim 2, the Examiner asserts that Grispi shows the apparatus includes a support structure (framework 24 and 25) for supporting the target panel (11). In regard to claim 3, the Examiner contends that Grispi shows the target panel (11) having a cutout portion (16, 17, 18, or 19) extending through the target panel for further defining a target.

In response, the Applicant has amended claim 1 to include “at least one bumper releasably connected to said target panel.” Grispi does not disclose at least one bumper releasably connected to the target panel. Grispi states that the target plate 22 is “hingedly mounted” to the upper edge 13 of the wall 11. (Col. 3, lines 32-34.) As a result, Grispi does not anticipate claim 1 as amended, nor

claims 2 or 3 which depend from claim 1. The Applicant therefore respectfully requests that the Examining Attorney withdraw the rejection of claims 1-3 as being anticipated by Grispi.

The Examiner next rejected claims 7-9, 12, 13, and 16 under 35 U.S.C. § 102(b) as being anticipated by Benedict, United States Patent No. 5,332,230. The Examiner contends that regarding claim 7, Benedict discloses a game apparatus, comprising an upright, rigid target panel (game plate 11, 12, or 13) and a plurality of elastomeric bumpers (patches 45 or 46) connected to said target panel (11, 12, or 13), wherein said bumpers are adaptable to deflect a thrown projectile in a random direction. The Examiner contends that it should be noted that the preamble, a throwing and catching training apparatus, does not limit the structure of the claimed device because the portion of the claim following the preamble is a self-contained description of the structure and does not depend on the preamble for completeness. The Examiner next asserted that in regard to claim 8, Benedict shows the apparatus includes a support structure (any one of the game plates 11, 12, or 13 can be used as a support structure) for supporting the target panel. In regard to claim 9, the Examiner asserts that Benedict shows the target panel (11, 12, or 13) having a cutout portion (rectangular opening 41 or 42) extending through the target panel for further defining a target. The Examiner next contends that regarding claim 12, Benedict further shows a stem (fastener 19a) releasably connected to the target panel and a substantially dome-shaped head (hinge pin 19) extends away from the target panel and is adaptable to deflect the thrown projectile in a random direction (best seen in figures 1 and 2). The Examiner further contends that it should be noted that the application as filed does not support two different types of deflection means and therefore, the stem having a substantially dome-shaped head has been taken to be the same as the bumpers in claim 7. Regarding claim 13, the Examiner notes the rejection of claims 7 and 8, and regarding claim 16, the Examiner notes the rejection of claim 9.

In response, Applicant notes that claim 7 recites “a plurality of elastomeric bumpers releasably connected to said target panel.” Benedict does not disclose elastomeric bumpers, nor does it disclose bumpers that are releasably connected to the target panel. Patches 45 and 46 of Benedict are “hook and loop fastener patches” that are “mounted” on game plate 13. (Col. 4, line 1.) Additionally, claim 7 recites that the bumpers are “adaptable to deflect a thrown projectile in a random direction.” In the Benedict art, the Examiner has cited patches 45 or 46 as exemplars of “elastomeric bumpers.” Benedict states that patches 45 and 46 are “rectangular hook-and-loop patches” (Col. 3, line 68). Not only are patches 45 and 46 incapable of deflecting a thrown projectile in a random direction, they are, in fact, designed to capture, not deflect, a thrown projectile. In short, Benedict does not anticipate any of the limitations of claim 7’s recitation of “a plurality of elastomeric bumpers releasably connected to said target panel and adaptable to deflect a thrown projectile in a random direction.” Benedict therefore does not anticipate claim 7, nor does it anticipate claims 8, 9, or 12, all of which depend from claim 7. The same limitations are included in claim 13, and Benedict therefore does not anticipate claim 13, nor does it anticipate claim 16 which depends from claim 13. Since the Benedict reference does not anticipate claims 7-9, 12, 13, or 16, Applicant respectfully requests that the Examiner withdraw this rejection and allow these claims to proceed to issue.

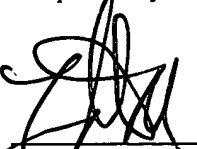
Further, Applicant notes the Examiner’s repeated assertion that the preamble does not limit the claimed device. Applicant respectfully notes that the Examiner has misstated the relevant standard for such an analysis. The relevant standard is not whether the portion of the claim following the preamble is a self-contained description of the structure. The relevant standard is whether “the recited purpose or intended use results in structural differences . . . between the claimed invention and the prior art.” MPEP § 2111.02. Further, Applicant notes that the preamble defines

the scope of analogous art devices that may be relevant in an obviousness-type rejection. *See* MPEP § 2141.01(a). While the Applicant recognizes that non-analogous art devices may be germane to a rejection under § 102, it is plain that the Grispi, Brun, and Benedict references are all, in fact, non-analogous art and could not be asserted in obviousness-type rejections.

The Applicant thanks the Examining Attorney for pointing out the allowable subject matter contained in claims 4, 10, 11, 14, 17, and 18. The Examiner objected to these claims as being dependent upon rejected base claims but noted that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response to this objection, the Applicant has made necessary amendments to claims 4, 10, 14, and 17 to rewrite these claims in independent form. Applicant respectfully notes that claim 11 depends from claim 10, now amended, and therefore does not need to be rewritten into independent form. Similarly, claim 18 depends from claim 17, now amended, and therefore, claim 18 does not need to be rewritten into independent form.

The Applicant respectfully requests that the Examiner enter the amendments included in this paper in light of these remarks and arguments and allow the claims to proceed to issue. If the Examiner should have any questions regarding this paper, she may contact Applicant's undersigned Attorney at (734) 662-0270.

Respectfully Submitted,



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